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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,227	04/04/2001	Jeremy Klug	P-1030	2460

7590

07/17/2002

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EXAMINER

BOSS, WENDY L

ART UNIT

PAPER NUMBER

1775

5

DATE MAILED: 07/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/826,227

Applicant(s)

KLUG, JEREMY

Examiner

Wendy Boss

Art Unit

1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 1775

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 11-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 11-16 are indefinite because each of these claims refer to “the material of claim 10”; however, claim 10 is drawn to a process rather than a material.

### *Claim Rejections - 35 USC § 102/103*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1775

6. Claims 1-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 4,961,991 (Howard) in view of U.S. Patent No. 4,591,166 (Atkinson et al.) and "Typical Grafoil® sheet properties".

Howard discloses a material comprising a flexible graphite sheet that is relatively void-free (see column 2, lines 16-61). Howard further discloses that the flexible graphite sheet is impregnated with a phenolic-based resin (see column 2, lines 25-61). Howard also discloses a process for producing a material comprising forming a flexible graphite sheet and manipulating the void condition to produce a relatively void-free material. It is also disclosed by Howard that the flexible graphite sheet is subjected to pressure (see column 2, lines 25-61).

Howard does not specifically disclose that the material is used as a substrate for an embossed flexible graphite sheet; however, it is disclosed that the graphite sheet may be used as a gasket. Attention is directed to column 1, lines 41-65 of Atkinson, which teaches that gaskets can be more readily removed if they are subjected to embossing treatment. Such a teaching would have motivated one having ordinary skill in the art to emboss the Howard gasket. Howard also does not specifically recite the density of the flexible graphite sheet; however, it is disclosed that the flexible graphite sheet is preferably Grafoil®. Attention is directed to "Typical Grafoil® sheet properties", which teaches that the density of Grafoil® is 1.1 g/cc.

7. Claims 1-3 and 10-12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,017,633 (Mercuri) in view of U.S. Patent No. 4,591,166 (Atkinson et al.).

Mercuri discloses a material comprising a flexible graphite sheet that is relatively void-free (see column 5, lines 20-29). Mercuri also discloses a process for producing a material

Art Unit: 1775

comprising forming a flexible graphite sheet and manipulating the void condition to produce a relatively void-free material.

Mercuri does not specifically disclose that the material is used as a substrate for an embossed flexible graphite sheet; however, it is disclosed that the graphite sheet may be used as a gasket. Attention is directed to column 1, lines 41-65 of Atkinson, which teaches that gaskets can be more readily removed if they are subjected to embossing treatment. Such a teaching would have motivated on having ordinary skill in the art to emboss the Mercuri gasket.

*Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wendy Boss whose telephone number is 703-306-5922. The examiner can normally be reached on M-Th 8:30a-6:00p; 2nd F 8:30a-5:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 703-308-3822.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Wendy Boss  
July 8, 2002



DEBORAH JONES  
SUPERVISORY PATENT EXAMINER